**S.B. CIVIL WRIT PETITOIN NO.628/2002**

**Daya Ram**
**vs**
**Board of Revenue & Ors.**

**DATE OF ORDER : 23.7.2007**

**HON'BLE MR. PRAKASH TATIA, J.**

Mr. SN Trivedi,for the petitioner.
Mr. Kulwant Singh, for the respondents.

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Heard learned counsel for the parties.

Learned counsel for the respondents-plaintiffs no. 2, 3 and 4 (now deceased) submitted that the plaintiffs have withdrawn the original suit itself from the court of trial court as in civil court the issue of petitioner's alleged adoption has been decided in favour of the plaintiff.

Learned counsel for the petitioner submitted that in view of the interim order passed by this Court dated 22.2.2003 and in the light of the order of the Revenue Appellate Authority dated 5.10.2001, the petitioner has deposited the amount as ordered by the Revenue Appellate Authority passed under Order 212(2) of the Rajasthan Tenancy Act. Learned counsel for the petitioner also pointed out that the amount deposited has been made

subject to decision of the proceedings and this Court specifically observed that Court will pass appropriate order at the time of final disposal of the case for disposal of the amount. Since the plaintiffs themselves have withdrawn the suit on whatever count and reasons,the fact remains is that the suit of the plaintiffs-respondents since has been dismissed as withdrawn, therefore, all interim orders merged in the order of dismissal of the plaintiffs' suit.

In view of the above reasons, the present writ petition itself has become infructuous. So far as amount which has been deposited by the petitioner in this litigation is concerned, that was because of the order passed by this court. This Court also took note of the order of the Revenue Appellate Authority and ordered that the amount be deposited in the scheduled bank and will be subject to final decision of the proceedings and made it clear that appropriate order will be passed by the court at the time of final disposal of the case.

In view of the above reasons since this Court passed order to deposit the amount in the scheduled bank, therefore, learned counsel for the respondent also agrees that amount can be refunded to the petitioner only. Therefore, it is ordered that petitioner may withdraw the deposited amount.

It is made clear that since the suit itself has been withdrawn by the plaintiffs, therefore, this Court has not observed anything on the question of possession over the land in dispute.

The writ petition of the petitioner is, therefore, dismissed as having become infructuous.

**[PRAKASH TATIA], J.**

c.p.goyal/-